

The House Committee on Health and Human Services offers the following substitute to SB 423:

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 44 of Title 31 of the Official Code of Georgia Annotated, relating to renal disease facilities, so as to provide a short title; to revise a definition for purposes of conformity; to revise certain provisions relating to the adoption of rules relative to end stage renal disease facilities and personnel thereof; to revise certain provisions relating to minimum standards for curricula, instructors, and training dialysis and reuse technicians; to amend Title 43 of the Official Code of Georgia Annotated, relating to regulation of professions and businesses, so as to add a new Chapter 30A regulating dialysis technicians; to provide for definitions; to provide for certification requirements for dialysis technicians; to provide for the renewal and reinstatement of certificates; to provide for powers of the Georgia Board of Nursing relating to the regulation of dialysis technicians; to provide for authorized activities of dialysis technicians; to provide for delegation of dialysis care by a registered professional nurse to a dialysis technician; to provide for the use of titles and other indications of certification; to provide for applications under oath; to provide for the creation, composition, and duties of the Dialysis Technician Advisory Council; to provide for disciplinary actions; to provide for violations; to provide for actions to enjoin; to provide for administrative procedures; to revise certain provisions relating to the nonapplicability of Code Section 43-34-177 for purposes of conformity; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

This Act shall be known and may be cited as the "Ray Biddy and Gene Mullis Act."

SECTION 2.

Chapter 44 of Title 31 of the Official Code of Georgia Annotated, relating to renal disease facilities, is amended in Code Section 31-44-1, relating to definitions, by striking paragraph (2) and inserting in its place the following:

"(2) 'Dialysis technician' means an individual certificated as a dialysis technician pursuant to Chapter 30A of Title 43 ~~who is not a registered nurse or physician and who provides dialysis care under the supervision of a registered nurse or physician.~~"

SECTION 3.

Such chapter is further amended in Code Section 31-44-3, relating to adoption of rules, council established, and terms of councilmembers, by striking subsection (a) and inserting in its place the following:

"(a) The board shall adopt rules to implement this chapter, including but not limited to requirements for the issuance, renewal, denial, suspension, and revocation of a license to operate an end stage renal disease facility. The rules adopted by the board pursuant to this Code section shall not conflict with the provisions of Chapter 30A of Title 43 or any federal law or regulation applicable to end stage renal disease facilities or personnel thereof and shall set forth minimum standards for the health, safety, and protection of the patient being served."

SECTION 4.

Such chapter is further amended by striking Code Section 31-44-9, relating to minimum standards for curricula, instructors, and training dialysis and reuse technicians, and inserting in its place the following:

"31-44-9.

The rules adopted by the board under Code Section 31-44-3 shall establish:

(1) Minimum standards for the curricula and instructors used to train individuals to act as ~~dialysis or reuse technicians~~;

(2) Minimum standards for the initial and annual determination of the competency of individuals who have been trained as dialysis or reuse technicians to perform delegated tasks in a licensed facility so long as such standards do not conflict with the provisions of Chapter 30A of Title 43;

(3) Minimum requirements for documentation that an individual has been trained and determined to be competent as a ~~dialysis or reuse technician~~ and the acceptance of that documentation by another end stage renal disease facility that may later employ the individual; and

(4) The acts and practices that are allowed or prohibited for dialysis or reuse technicians so long as such provisions do not conflict with the provisions of Chapter 30A of Title 43 and are not construed to expand or limit the scope of practice of dialysis technicians authorized pursuant to such chapter."

SECTION 5.

Title 43 of the Official Code of Georgia Annotated, relating to regulation of professions and businesses, is amended by adding a new Chapter 30A to read as follows:

"CHAPTER 30A

43-30A-1.

As used in this chapter, the term:

(1) 'Applicant' means any person seeking a certificate under this chapter.

(2) 'Approved dialysis technician training curriculum' means a board approved curriculum used to train dialysis technicians including, but not limited to, a board approved dialysis company or facility-sponsored training curriculum or another state approved curriculum.

(3) 'Board' means the Georgia Board of Nursing established pursuant to Code Section 43-26-4.

(4) 'Certificate' means a valid and current certificate of registration issued by the board pursuant to this chapter permitting a person to provide dialysis care as a dialysis technician.

(5) 'Dialysis care' means performing and monitoring dialysis procedures, including initiating and discontinuing dialysis, drawing blood, and administering medications in accordance with this chapter and with board rules.

(6) 'Dialysis facility' means an end stage renal disease facility licensed pursuant to Chapter 44 of Title 31.

(7) 'Dialysis technician' means a person who provides dialysis care.

(8) 'Dialysis technician trainee' means a person enrolled in an approved dialysis technician training curriculum.

(9) 'Direct supervision' means initial and ongoing direction, procedural guidance, and observation and evaluation by a registered professional nurse or physician; and when a patient is being dialyzed, the nurse or physician is in the immediate clinical care area.

(10) 'National certification' means certification as a dialysis technician issued by a nationally recognized accrediting organization such as, but not limited to:

(A) Certified Clinical Hemodialysis Technician (CCHT) through the Nephrology Nursing Certification Commission (NNCC);

(B) Certified Hemodialysis Technician (CHT) through the Board of Nephrology Examiners Nursing and Technology (BONENT); or

(C) Certified Clinical Nephrology Technician (CCNT) or Certified Biomedical Nephrology Technician (CBNT) through the National Nephrology Certification Organization (NNCO).

(11) 'Person' means a natural person only.

(12) 'Physician' means an individual who is licensed to practice medicine under Article 2 of Chapter 34 of this title.

(13) 'Registered professional nurse' means an individual who is licensed to practice nursing under Article 1 of Chapter 26 of this title.

43-30A-2.

(a) On and after March 1, 2007, no person may provide dialysis care as a dialysis technician in this state who is not licensed pursuant to this chapter. All applicants for a certificate to practice as a dialysis technician shall make application to the board in the form and manner established by the board. Such applicants shall submit to the board a designated fee and written evidence demonstrating that the applicant:

(1) Is of good moral character;

(2) Has attained a high school diploma or a general educational development (GED) diploma or the equivalent thereof;

(3) Has successfully completed an approved dialysis technician training curriculum;

(4) Has achieved national certification as a dialysis technician; and

(5) Has met such other qualifications as required by the board.

(b) An individual who was working on or before March 1, 2007, as a dialysis technician in a dialysis facility and whose administrative registered professional nurse in charge acknowledges that he or she is competent to perform the delegated duties and practices in accordance with the laws regulating the provision of dialysis care, the rules of the board, and any other applicable federal and state laws and regulations shall be considered as having met the requirements of paragraphs (3) and (4) of subsection (a) of this Code section for the purposes of being certified by the board as a dialysis technician.

(c) An individual who has successfully completed an approved dialysis technician training curriculum on or before March 1, 2007, who was working on or before March 1, 2007, as a dialysis technician trainee in a dialysis facility and whose administrative registered professional nurse in charge acknowledges that he or she is competent to perform the

1 delegated duties and practices in accordance with the laws regulating the provision of
2 dialysis care, the rules of the board, and any other applicable federal and state laws and
3 regulations shall be considered as having met the requirements of paragraph (4) of
4 subsection (a) of this Code section for the purposes of being certified by the board as a
5 dialysis technician.

6 (d) The board may, upon receipt of a completed application and fee, issue a temporary
7 permit to practice as a dialysis technician to an applicant who has completed an approved
8 dialysis technician training curriculum and who meets the qualifications established by the
9 board. A temporary permit shall not be renewable, and shall be effective 90 days from the
10 date of issuance, unless the board revokes the temporary permit prior to its expiration.

11 (e) The board may, upon receipt of a completed application and fee, issue a temporary
12 endorsement to practice as a patient care dialysis technician to an applicant who has been
13 certified as a dialysis technician under the laws of another state, territory, or foreign
14 country and who meets the qualifications established by the board. A temporary
15 endorsement shall not be renewable and shall be effective for 90 days unless the board
16 revokes the temporary endorsement prior to its expiration.

17 (f) Application for a certificate under this Code section shall constitute consent for
18 performance of a criminal background check. Each applicant who submits an application
19 to the board for certification agrees to provide the board with any and all information
20 necessary to run a criminal background check, including but not limited to classifiable sets
21 of fingerprints. The applicant shall be responsible for all fees associated with the
22 performance of a background check. The board may accept the results of criminal
23 background checks conducted by an applicant's employer if they were conducted within
24 an acceptable period of time and if they include the minimum required checks.

25 43-30A-3.

26 (a) Certificates issued under this chapter shall be renewed biennially prior to the expiration
27 of the certificate according to schedules and fees decided by the board.

28 (b) A certificate shall be renewed for any dialysis technician who remits the required fee
29 and complies with the requirements established by the board. The board shall be
30 authorized to require persons seeking renewal of a certificate to complete board approved
31 continuing education.

32 (c) The voluntary surrender of a certificate or the failure to renew a certificate by the end
33 of an established renewal period shall have the same effect as revocation of said certificate,
34 subject to reinstatement at the discretion of the board. The board may restore and reissue

1 a certificate, and, as a condition thereof, may impose any disciplinary sanction provided by
2 Code Section 43-1-19 upon such grounds as specified in such Code section.

3 (d) Any certificate that is not renewed by the end of the renewal period may not thereafter
4 be renewed, and the certificate holder must apply for reinstatement. Applicants for
5 reinstatement who have not been engaged in the active practice of dialysis care as a dialysis
6 technician for a period which exceeds five years shall be required to obtain such additional
7 education and training as provided in the rules and regulations of the board, which may
8 include but not be limited to returning to school for full training and taking the certification
9 examination. Upon completion of the curriculum, an application may be made for
10 certification as a new applicant.

11 (e) Other criteria for reinstatement may be determined by the rules of the board, including
12 but not limited to the following: additional coursework, a refresher course, supervised
13 clinical practice, or examination by the board.

14 43-30A-4.

15 (a) The board shall have the power to:

16 (1) Examine and determine the qualifications and fitness of applicants for certification
17 as dialysis technicians in this state;

18 (2) Establish minimum standards for the determination of the competency of individuals
19 who have been trained as dialysis technicians;

20 (3) Establish standards for approving and withdrawing approval of dialysis technician
21 training curricula;

22 (4) Establish minimum standards for the curricula and instructors used to train
23 individuals to act as dialysis technicians in approved dialysis technician training
24 curricula;

25 (5) Issue, renew, refuse to renew, deny, suspend, reinstate, and revoke certificates of
26 dialysis technicians in this state or otherwise discipline dialysis technicians;

27 (6) Determine the acts and practices that are allowed or prohibited for dialysis
28 technicians, in accordance with the provisions of this chapter;

29 (7) Establish continuing education requirements for dialysis technicians which may
30 include any continuing education requirements for national certification;

31 (8) Conduct investigations for the purpose of discovering violations of this chapter or
32 grounds for disciplining persons certificated under this chapter;

33 (9) Hold hearings on all matters pertaining to this chapter properly brought before the
34 board and, in conjunction therewith, to administer oaths, receive evidence, make the

necessary determinations, and enter orders consistent with the findings. The board may designate one or more of its members as its hearing officer;

(10) Adopt rules and regulations consistent with this chapter necessary to enable it to carry into effect the provisions of this chapter, including disciplinary rules;

(11) Establish fees pertaining to this chapter; and

(12) Bring proceedings to the courts for the enforcement of this chapter or any rules and regulations promulgated pursuant to this chapter.

(b) In addition to the enumerated powers in subsection (a) of this Code section, the board has the authority to conduct its business pursuant to the provisions of Code Section 43-1-19 which is incorporated herein and made a part of this chapter by specific reference.

43-30A-5.

(a) A dialysis technician may provide dialysis care when delegated to him or her by a registered professional nurse if:

(1) The dialysis technician has a valid certificate issued pursuant to this chapter;

(2) The registered professional nurse considers the dialysis technician to be competent; and

(3) The dialysis technician provides the care under the direct supervision of the registered professional nurse.

(b) Nothing in this chapter may be construed to prohibit a dialysis technician trainee from performing dialysis care as a part of and within the scope of the clinical skills instruction segment of an approved dialysis technician training curriculum.

43-30A-6.

A dialysis technician is authorized to perform the following activities, under the direct supervision of a registered professional nurse or a physician:

(1) Preparing and initiating dialysis access sites;

(2) Initiating, delivering, or discontinuing dialysis care;

(3) Administering only the following medications:

(A) Heparin to prime the pump, initiate treatment, or for administration through treatment in an amount prescribed by a physician or other authorized practitioner; this may be done intravenously, peripherally via a fistula needle, or in another clinically acceptable manner;

(B) Normal saline via the dialysis extra corporeal circuit as needed through the dialysis procedure; this may be done intravenously, peripherally via a fistula needle, or in another clinically acceptable manner; and

(C) Intradermal anesthetic in an amount prescribed by a physician or other authorized practitioner;

(4) Obtaining a blood specimen via the dialysis extra corporeal circuit or a peripheral access site;

(5) Reporting changes that arise in conjunction with dialysis care to the registered professional nurse or physician; and

(6) Engaging in other acts as permitted by board rules and as delegated by the registered professional nurse or physician in order to provide dialysis care.

43-30A-7.

(a) An individual licensed by the board as a dialysis technician pursuant to the provisions of this chapter shall be known as a dialysis technician and may use the initials 'D.T.' after his or her name. On and after March 1, 2007, no other individual may use the title, abbreviation, or any other words, letters, figures, signs, or devices to indicate that he or she is a dialysis technician in this state.

(b) An individual enrolled in an approved dialysis technician training curriculum shall be known as a dialysis technician trainee. A dialysis technician trainee shall adhere to the rules and regulations of the board for dialysis technicians and is subject to disciplinary action by the board as provided by board rules.

43-30A-8.

The board may require that all applications be made under oath.

43-30A-9.

(a) There is created the Dialysis Technician Advisory Council, which shall advise the board on issues relating to the qualifications, standards for training, competency determination of dialysis technicians, and all other matters relating to dialysis technicians.

(b) The council shall be appointed by the board and shall consist of eight members as follows:

(1) One member of the board, who shall serve as chairperson of the council;

(2) Two dialysis technicians;

(3) Two registered professional nurses who regularly provide dialysis care and care for patients who receive dialysis;

(4) One physician who regularly treats patients receiving dialysis care; and

(5) Two dialysis or kidney transplant patients.

(c) The board shall specify the length of terms of the members.

(d) Members of the council shall be reimbursed for expenses and travel as provided for members of various professional licensing boards in subsection (f) of Code Section 43-1-2.

43-30A-10.

The investigatory and disciplinary authority of the board shall be as provided in Code Section 43-1-19.

43-30A-11.

(a) It shall be unlawful for any individual, firm, corporation, facility, or association to:

(1) Sell or fraudulently obtain or furnish any national certification credential or documentation of successful completion of an approved dialysis technician training curriculum or aid or abet therein;

(2) Perform services as a dialysis technician unless authorized by the provisions of this chapter;

(3) Use in connection with his or her name any designation tending to imply that he or she is a dialysis technician unless authorized by the provisions of this chapter; or

(4) Otherwise violate any provision of this chapter.

(b) Any person who violates this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not less than \$500.00 or more than \$1,000.00.

(c) Each act of unlawful practice under this Code section shall constitute a distinct and separate offense.

43-30A-12.

(a) The practice of dialysis care is declared to be an activity affecting the public interest and involving the health, safety, and welfare of the public. Such practice by a person who is not certificated to practice in this state is declared to be a public nuisance, harmful to the public health, safety, and welfare.

(b) Any citizen of this state, the board, or the appropriate prosecuting attorney where such practice is carried out by such uncertificated person may, on behalf of the public, bring an action to restrain and enjoin such uncertificated practice in the superior court of the county where such uncertificated person resides or works. It shall not be necessary in order to obtain an injunction under this Code section to allege or prove that there is no adequate remedy at law or to allege or prove any special injury.

(c) The remedy provided for in this Code section shall be cumulative to, and not in lieu of, any other remedy or penalty provided in this chapter or otherwise provided by law.

1 43-30A-13.

2 Proceedings under this chapter shall be governed by Chapter 13 of Title 50, the 'Georgia
3 Administrative Procedure Act.'"

4 **SECTION 6.**

5 Said title is further amended in Code Section 43-34-178, relating to the nonapplicability of
6 Code Section 43-34-177, by striking paragraph (6) of subsection (a) and inserting in its place
7 the following:

8 "(6) A person working as a dialysis ~~care~~ technician in an end stage renal disease facility
9 licensed pursuant to Chapter 44 of Title 31 or a licensed hospital."

10 **SECTION 7.**

11 This Act shall become effective on July 1, 2006.

12 **SECTION 8.**

13 All laws and parts of laws in conflict with this Act are repealed.